



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

AUG 1 0 2005

Kurt F. Zimmermann, Esq.
Silverstein & Osach, PC
234 Church Street, Suite 903
New Haven, CT 06510

RE: MUR 5453
Giordano for US Senate Committee
and its treasurer

Dear Mr. Zimmermann:

On August 8, 2005, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of a violation of 2 U.S.C. §§ 441b(a) and 441a(f), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter as it pertains to the Giordano for US Senate Committee and its treasurer. Please be advised that the civil penalty in this agreement reflects unusual factors brought forth during the investigation.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the effective date of the conciliation agreement. If you have any questions, please contact me at (202) 694-1505.

Sincerely,

Christine C. Gallagher
Christine C. Gallagher
Attorney

Enclosure
Conciliation Agreement

26044131221

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

FILED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2005 JUL 25 P 12: 58
MUR 5453

2
3 In the Matter of)
4)
5 Giordano for U.S. Senate Committee and its treasurer)
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7

8 **CONCILIATION AGREEMENT**

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10 This matter was generated based on information ascertained by the Federal Election
11 Commission ("the Commission") in the normal course of carrying out its supervisory
12 responsibilities. *See* 2 U.S.C. § 437g(a)(2). Based upon available information, the Commission
13 found reason to believe the Giordano for U.S. Senate Committee and its treasurer
14 ("Respondents") violated 2 U.S.C. §§ 441b(a) and 441a(f).

15 NOW, THEREFORE, the Commission and Respondents, having participated in informal
16 methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as
17 follows:

18 I. The Commission has jurisdiction over Respondents and the subject matter of this
19 proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.
20 § 437g(a)(4)(A)(i).

21 II. Respondents have had a reasonable opportunity to demonstrate that no action
22 should be taken in this matter.

23 III. Respondents enter voluntarily into this agreement with the Commission.

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IV. The pertinent facts in this matter are as follows:¹

1. The Giordano for U.S. Senate Committee ("Committee") is a political committee within the meaning of 2 U.S.C. § 431(4), and was Philip Giordano's authorized committee for his 2000 Senatorial race in Connecticut.

2. Corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with any election of any candidate for federal office. *See* 2 U.S.C. § 441b(a). 2 U.S.C. § 441b(a) also makes it unlawful for any candidate, political committee, or other person knowingly to accept or receive a prohibited corporate contribution. *See id.*

3. 2 U.S.C. § 441a(f) prohibits any officer or employee of a political committee from knowingly accepting a contribution made for the benefit or use of a candidate in violation of any limitation imposed on contributions and expenditures.

4. Prior to implementation of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002), individuals were permitted to make contributions that did not exceed \$1,000 per election of any candidate for federal office. *See* 2 U.S.C. § 441a(a)(1) (2002).

5. The Act addresses violations of law that are knowing and willful.

¹ All of the facts recounted in this agreement occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended ("the Act"), herein are to the Act as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under BCRA. All statements of the law in this agreement that are written in the present tense shall be construed to be in either the present or the past tense, as necessary, depending on whether the statement would be modified by the impact of BCRA or the regulations thereunder.

1 See 2 U.S.C. §§ 437g(a)(5)(B) and 437g(d). The phrase “knowing and willful” indicates that
2 “actions [were] taken with full knowledge of all of the facts and a recognition that the action is
3 prohibited by law.” 122 Cong. Rec. H3778 (daily ed. May 3, 1976).

4 6. Respondents accepted contributions from individuals in excess of \$1,000.
5 The total amount of excessive individual contributions received and not refunded is \$3,500.

6 7. Respondents accepted contributions from corporations. The total amount of
-7 corporate contributions received and not refunded is \$6,750.

8 8. Philip Giordano, the candidate, is currently incarcerated, and serving a 37-year
9 sentence for crimes unrelated to campaign finance issues.

10 9. The Committee has \$919.27 in remaining funds. Due to the candidate’s
11 status, the Committee is not able to raise additional funds.

12 V. Respondents violated 2 U.S.C. §§ 441b(a) and 441a(f) by knowingly and willfully
13 accepting excessive contributions from individuals and knowingly and willfully accepting
14 contributions from corporations, and not refunding those contributions.

15 VI. 1. Respondents will pay a civil penalty to the Federal Election Commission in
16 the amount of nine hundred nineteen dollars and twenty-seven cents (\$919.27), pursuant to
17 2 U.S.C. § 437g(a)(5)(B).

18 2. Respondents will cease and desist from violating 2 U.S.C. §§ 441b(a) and
19 441a(f).

20 3. Upon notification from the Commission that MUR 5453 is closed, the
21 Respondents shall file any reports necessary to terminate the Committee’s political committee
22 status.

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VII. The Commission, on request of anyone filing a complaint under 2 U.S.C.

§ 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

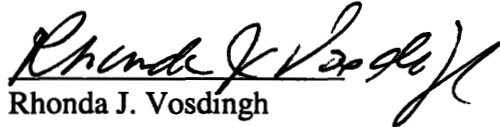
IX. Unless specifically noted otherwise, Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

BY:


Rhonda J. Vosdigh
Associate General Counsel
for Enforcement

8/9/05
Date

FOR THE RESPONDENTS:


Thomas M. Ariola, Jr.

7-19-05
Date

Position: FORMER ACTING ASSISTANT TREASURER